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UNCLAS SECTION 01 OF 02 SANAA 003577

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FINCEN; EB/ESC/TFS.

E.O. 12958: N/A

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SUBJECT: 2005-2006 INSCR REPORT FOR YEMEN: FINANCIAL CRIMES
AND MONEY LAUNDERING

REF: SECSTATE 210346

1. The following is the text of Embassy Sanaa's update to
Part II of the 2005-2006 INSCR report on financial crimes and
money laundering.

Begin Text

The Yemeni financial system is not yet well developed; thus, the extent of money laundering is not known. The prevalence of alternative remittance systems, such as hawala, makes financial institutions vulnerable to money laundering, although they are technically subject to limited monitoring by the Central Bank of Yemen (CBY), and renders commercial banking largely irrelevant to most Yemenis. The banking sector is relatively small with 17 commercial banks, including four Islamic banks (one was recently taken over by the CBY and may be liquidated). The CBY supervises the banks. Local banks account for approximately 62 percent of the total banking activities, while foreign banks cover the other 38 percent.

Yemen's parliament passed a comprehensive anti-money laundering legislation (Law 35) in April 2003. The legislation criminalizes money laundering for a wide range of crimes, including narcotics offenses, kidnapping, embezzlement, bribery, fraud, tax evasion, illegal arms trading, and monetary theft, and imposes penalties of three to five years of imprisonment. Yemen currently has no specific legislation relating to terrorist financing, but Cabinet decision 247 issued in 2005 directs the CBY and the Ministry of Legal Affairs to amend Law 35 to include terrorist financing. The Ministry of Interior (MOI) also has a unit to investigate terrorist financing. According to the law, both the MOI and CBY report their findings to the Attorney General for enforcement.

Law 35 requires banks, financial institutions, and precious commodity dealers to verify the identity of persons and entities that open accounts (or in the case of the dealers for those who execute a commercial transaction), to keep records of transactions for up to ten years, and to report suspicious transactions. In addition, the law requires that reports be submitted to an information-gathering unit within the CBY. The unit acts as the Financial Intelligence Unit (FIU), which in turn reports to the Anti-Money Laundering Committee (AMLC).

The FIU is severely understaffed, with a total of three employees at the main office. Eighteen field inspectors for banking supervision, who also serve as investigators for the FIU, work with laptop computers provided by the IMF over eight years ago. The FIU has no database and is not networked internally or to the rest of the CBY. The CBY provides training to other members of the government to assist in elements of anti-money laundering enforcement, but lack of capacity severely hampers any attempts by the FIU to control illicit activity. The supervision department of the CBY has submitted requests for foreign assistance to the Department of Treasury, the IMF, and others.

The AMLC is composed of representatives from the Ministries of Finance, Foreign Affairs, Justice, Interior, and Industry and Trade, the Central Accounting Office, the General Union of Chambers of Commerce and Industry, the CBY, and the Association of Banks. The AMLC is authorized to issue regulations and guidelines and provide training workshops related to combating money laundering efforts. It reports its findings to the Prime Minister every three months. In addition, Law 35 grants the AMLC the right to exchange information with foreign entities. The head of the AMLC is empowered by law to ask local judicial authorities to enforce foreign court verdicts based on reciprocity. Also, the law permits the extradition of non-Yemeni criminals in accordance with international treaties or bilateral agreements. A separate inter-ministerial Terrorist Finance Committee, headed by the Ministry of Foreign Affairs, was created in 2000 and takes the lead in engaging the UN Security Council and other international bodies.

Prior to passage of the anti-money laundering law, the CBY issued Circular 22008 in April 2002, instructing banks and financial institutions that they must verify the legality of all proceeds deposited in or passing through the Yemeni banking system. The circular stipulates that financial institutions must positively identify the place of residence of all persons and businesses that establish relationships with them. The circular also requires that banks verify the identity of persons or entities that wish to transfer more than \$10,000, when they have no accounts at the banks in question. The law also prohibits the transfer of more than \$10,000 cash in or out of the country without permission from the CBY, although this is rarely enforced. The same provision applies to beneficiaries of such transfers. Banks must also take every precaution when transactions appear suspicious, and report such activities to the CBY. The circular was distributed to the banks along with a copy of the Basel Committee's "Customer Due Diligence for Banks," concerning "know your customer" procedures and "Core Principles for Effective Banking Supervision". The CBY issued Circular No. 4 on December 9, 2003, ordering banks to set up intelligence gathering units specializing in investigating and monitoring suspicious funds and transactions in their regulatory structures. In 2005, however, no reports were filed with the FIU by commercial banks and there were no prosecutions.

In response to the UNSCR 1267 Sanctions Committee's consolidated list and the list of Specially Designated Global Terrorists designated by the United States pursuant to E.O. 13224, and Yemen's Council of Ministers, directives, CBY issues regular circulars to all banks operating in Yemen, directing them to freeze accounts of designated persons, companies, and organizations, and to report any finding to CBY. No accounts were frozen and no assets were seized in 2005. Since the February 2004 addition of Sheikh Abdul Majid Zindani to the UNSCR 1267 Sanctions Committee's consolidated list, the Yemeni government has made no known attempt to enforce the sanctions and freeze his assets. In such cases, information sharing is limited by a lack of political will, as well as a lack of enforcement capacity.

A law was passed in 2001 governing charitable organizations. This law entrusts the Ministry of Labor and Social Affairs with overseeing their activities. The law also imposes penalties of fines and/or imprisonment on any society or its members convicted of carrying out activities or spending funds for other than the stated purpose for which the society in question was established. In 2005, 21 charities were questioned as part of continuous supervision in coordination with the Ministry of Labor and Social Affairs, but there were no prosecutions. Cabinet decision 378 gave the FIU authority to investigate gold shops, insurance companies, and real estate brokers in order to enhance procedures to combat terrorist financing. The FIU also has legal authority to investigate transactions in the Aden Free Zone, but has never had cause to test these powers in what is a relatively small area of activity.

Yemen is one of the original signatories of the memorandum of understanding governing the establishment of the Middle East and North Africa Financial Action Task Force (MENAFATF). The MENAFATF is a FATF-styled regional body that promotes best practices to combat money laundering and terrorist financing in the region. It was inaugurated in November 2004 in Bahrain by 14 Arab countries. Yemen is a party to the 1988 UN Drug Convention and the UN Convention Against Corruption, and has signed, but not yet ratified, the UN Convention against Transnational Organized Crime and the UN International Convention for the Suppression of the Financing of Terrorism. Yemen is a party to the Arab Convention for the Suppression of Terrorism.

The Government of Yemen is making progress in enforcing its domestic anti-money laundering program. The passage of the 2003 anti-money laundering legislation represents a significant first step in meeting international standards. However, development of the FIU and international cooperation with criminal investigations are still in the initial stages. The CBY is still organizing its enforcement mechanism and is in dire need of technical and financial assistance. Its effectiveness will demonstrate the authorities' commitment to ending money laundering. Yemen should also consider expanding oversight of alternative remittance systems such as hawala and trade-based money laundering. As a next step, Yemen should follow through on plans to enact specific legislation with respect to terrorist financing and forfeiture of the assets of those suspected of terrorism. It should ratify the UN Convention against Transnational Organized Crime and the UN International Convention for the Suppression of the Financing of Terrorism.

Krajeski